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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/399,753	09/21/1999	CRAIG MILLER	00479.83892	2665

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EXAMINER

KYLE, CHARLES R

ART UNIT PAPER NUMBER

3624

DATE MAILED: 09/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/399,753

Applicant(s).

MILLER ET AL.

Examiner

Charles R Kyle

Art Unit

3624

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 20 July 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: _____.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s): _____.
10. ☐ Other: _____

Continuation of 5. does NOT place the application in condition for allowance because: Applicant's arguments are not persuasive. At pages 9-10, argument is made that Silverman does not provide an advertised invitation to a group. The Merriam Webster's Tenth Edition Dictionary, 1998, defines advertisement as "to make something known to : NOTIFY". Applicant cites a passage from Silverman and italicizes text that states that parties are notified. Thus, Silverman discloses advertisement; because parties may, rather than must respond, an invitation is understood. At pages 10-12, Applicant argues that Ludwig does not disclose a second database for storing information concerning group members. This is incorrect. The Examiner specifically cited Ludwig at Fig. 20, ele, 163 to disclose a database of such members. See also Col. 18, line 66 to Col. 19, line 23. Applicants claim language recites no limitations to distinguish over the cited portion of Ludwig. At the bottom of page 12, Applicant asserts that Stein teaches away from the user defined environment but provides no convincing reasoning as to why this would be so. Applicant cites differences between the references but does not clearly enunciate why they are incompatible. In response to applicant's argument at page 13 that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971). Further, the Examiner has provided motivation which Applicant fails to challenge. Concerning Applicant's comments on Claim 25, arguments are put forth on the specification, not the claim language, which is far less detailed. As to comments on Claim 31, Ludwig discloses e-mail which logically combines with anonymity disclosed by Silverman. Finally, Applicant argues that Ludwig does not disclose a message comprising a predefined reply card format. Applicant is referred to the universal "Reply" button on e-mail, which is predefined and facilitates a reply to sender. The rejections are maintained.



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